IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3596 OF 2005

THE STATE OF MAHARASHTRA ..APPLICANT

V/S

PANDURANG A. KOLI ..RESPONDENT

MRS. M.M. DESHMUKH APP.

CORAM: J.H. BHATIA, J.

DATE : 18TH JUNE, 2007.

P.C.

1. Heard Mrs. Deshmukh, learned APP.

2. This application is filed by the State seeking leave to prefer Appeal against the order of acquittal passed by J.M.F.C., Tasgaon in R.C. Case No. 60/2000 for offences punishable under section 498-A, 323, 504 IPC.

3. The prosecution case in brief is that the accused married P.W. 1 Shanta Koli on 5-6-1993 and for about 5 years they were living peacefully. On 20th April 1998 Sanjay, son of the accused from his first wife was married. According to the prosecution after the marriage of Sanjay, accused began to harass his wife, Shanta to pressurise her to fetch an amount of Rs. 50,000/- from her parents for purchase of a plot and to

bring watch and gold ring from her parents and used to keep her without food on some occasions. She narrated this complaint to her maternal uncle Haibatrao Koli on 14-2-2000. On 29-2-2000 for the whole night she was beaten by the accused. She was also asked to immolate herself. She then wrote a letter to her parents on 2/3/2000 and then her mother came and took her back. On her report the police filed the charge sheet on 26-4-2000.

4. Learned trial court acquitted the accused observing that for more than about 5 years there was no allegation of ill-treatment and the alleged problems arose only after the marriage of son of the accused. Learned trial court noted that the accused is financially well settled. He was serving in State Bank and was having a motor cycle, scooter and a car. Taking into consideration his financial status and the property possessed by him the alleged demand was very meagre. The learned trial court noted that there were serious allegations of adultery of the wife, as it was alleged that she was moving around with one Babu Koli. The learned trial court noted that she had moved around with him and had gone to different places. It was also noted that while P.W. 1 Shanta was a young lady, the accused was aged about 55 years at the time of

prosecution in the year 2000. There was no independent

evidence to support the prosecution story. The father of Shanta was not examined to prove that she had written letters and in any case the said letter appears to have been written just few days before leaving the house of her husband.

5. Taking into consideration the evidence led by the prosecution and the reasons given by the trial court for acquittal, it is possible that there may be different views about the same but at the same time it cannnot be said that the view taken by the trial court is per se wrong, illegal or perverse. Merely because the different view is also possible, the prosecution cannot succeed in appeal against the acquittal. Therefore I do not find valid reasons to grant leave to prefer Appeal against the acquittal.

6. In the result the application stands rejected. Leave refused.

(J.H. BHATIA, J.)